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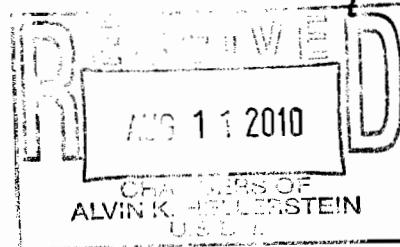
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August 13, 2010

In light of the parties' lack of consensus, a conference to discuss settlement negotiation would not be fruitful. I will revisit the issue after decision on the pending motions to dismiss.

**VIA EMAIL**

Honorable Alvin K. Hellerstein  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1050  
New York, NY 10007-1312



Re: *In re September 11 Property Damage and Business Loss Litigation, 21MC101(AKH)/Cedar & Washington Associates, LLC v. The Port Authority of New York and New Jersey, et al., 08 CIV 9146 (AKH)*

Dear Judge Hellerstein:

We represent non-settling plaintiff Cedar & Washington Associates, LLC ("C&W") in the above-referenced action, and write in response to American Airlines, Inc. and AMR Corporation's (collectively, "American") August 9<sup>th</sup> letter sent on behalf of all of the CERCLA defendants, which responded to our August 5<sup>th</sup> letter. American's arguments grossly mischaracterize the bases for C&W's request, and should be rejected for the following reasons:

First, American ignores the current procedural posture of 21 MC 101. C&W's request for coordination and a damages mediation/settlement process to protect the various parties' ATSSSA rights has nothing whatsoever to do with its response to the Joint Motion for Approval of the settlement agreement between the Aviation Defendants and the Settling Plaintiffs. Rather, C&W's request is predicated on the current procedural posture of all claims and issues after this Court issued its Approval Orders with respect to the Joint Motion (*see* August 5<sup>th</sup> letters at pp. 1-2). The current posture of both potentially settled (that are the subject of WTCP's appeal) and non-settled ATSSSA claims justifies C&W's request for coordination and a damages mediation/settlement process for all the remaining claims.

Second, the post-Approval Orders procedural posture is very different from the procedural posture either before the Approval Orders or at the time the Court issued its order in the CERCLA case on December 22, 2009 (*see* American's August 9<sup>th</sup> letter at Exhibit C). Unlike the status of the 21 MC 101 claims at the time of the Court's December 22<sup>nd</sup> Order, all but three claims are settled today with a potentially significant ATSSSA distribution to the settling plaintiffs. More importantly, it is our understanding that the WTCP and the aviation defendants are planning to conduct another mediation in mid-September 2010 in a further attempt to settle WTCP's allegedly multi-billion dollar claim. C&W respectfully submits that the universe of available ATSSSA funds is very different today than it was prior to the Approval

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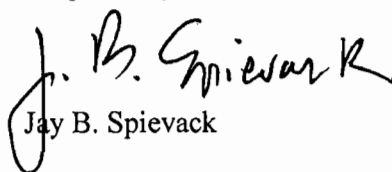
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Orders, and that the availability and fair distribution of such remaining funds outweighs the current procedural posture of every individual case, including C&W's cases.

Finally, given the changed procedural posture of the individual cases within 21 MC 101, and given the universe of remaining ATSSSA funds, C&W's request is not premature. In fact, C&W believes that only an on-going mediation/settlement process can facilitate the effort to fully and finally resolve all claims and issues still pending in 21 MC 101. For instance, in addition to the reasons stated in our August 5<sup>th</sup> letter, while C&W is confident that this Court will deny the pending 12(c) motions, C&W respectfully submits that there is nothing premature about simultaneously proceeding with this Court's established damages and mediation/settlement process at this stage regardless of the outcome of the 12 (c) motions. The Court retains jurisdiction of all 21 MC 101 cases throughout the appellate process and, as the WTCP's recent actions before this Court and the Second Circuit demonstrate, coordination and a simultaneous mediation/settlement track is the best way to facilitate a quicker final resolution of all the individual cases and remaining issues that are consolidated within 21 MC 101 during the pendency of this consolidated action and the lengthy and potentially multiple appeals.<sup>1</sup>

Therefore, C&W respectfully renews its request for a conference to explore with counsel and Your Honor how best to efficiently and effectively coordinate the claims in 21 MC 101, and an order establishing a settlement/mediation process similar to the process the Court put in place for 21 MC 101, 21 MC 102 and 21 MC 103. At a minimum, given the current procedural posture of 21 MC 101, C&W respectfully submits that a proposed conference to explore these matters should be held in conjunction with any hearing to consider WTCP's objections to the ATSSSA settlement distributions to eight of the settling plaintiffs before the resolution of WTCP's first appeal with respect to the Approval Orders.

Respectfully submitted,

  
Jay B. Spievack

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<sup>1</sup> While this Court is aware that C&W voluntarily produced its damages analysis and damage documents to the CERCLA defendants this year, the CERCLA defendants have not engaged in a process to establish C&W's legally recoverable damages due to, among other things, the Court's December 22<sup>nd</sup> Order. Certainly, the Court should now permit expedited discovery on C&W's damages claims because the current procedural posture of all the 21 MC 101 claims and issues make it equally important to establish -- like the Court did for WTCP -- C&W's potential ATSSSA recovery rights.

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